

Unauthorized Discharge Evaluation Tool

The tool herein is intended to assist District Staff in assessing the information provided for unauthorized discharges. It should provide a rational, fair and consistent method for an initial evaluation and initial recommendation to management. Although this tool is not required to be utilized, it is intended to represent a consistent starting point for staff and should be considered in each case. As in all cases, the District Office Assistant Director, along with the Division Deputy Director should utilize their best judgement in determining how to proceed.

Instructions:

1. Look up the initial volume of the unauthorized discharge in Column A. The corresponding action in Column B is the starting point.
2. Determine if any of the bullets below apply; move up, down, or stay in the corresponding Column B as instructed by applicable bullets. Moves are cumulative; **add all applicable moves together FIRST and then adjust the position on the chart.** For example, if a spill is treated and reaches surface water, move down 1 on the chart (up 1 + down 2 = down 1. Adding moves together before adjusting on the chart will prevent bottoming out/up on the chart.)
3. Use consideration “Response, Operation & Maintenance Actions” (bullet 5 below) to account for any recovered volumes of the spill. For example, 20,000 gallons was spilled and 15,000 of the 20,000 gallons was recovered, therefore, move up one.
4. Unique site-specific items and best professional judgement should still be considered. For example, if the spill entered a wet detention pond that is not considered surface water, but the pond was full, and discharging; discuss with management and determine if moving down Column B is appropriate.

Column A: Initial Spill Volume (gallons)	Column B: Starting point actions by DEP staff (See instructions above.)
1 – 1,000	Review 5-day report Memo to file
1,001 – 10,000	Review 5-day report Memo to file
10,001 – 100,000	Review 5-day report CAO
100,001 +	Review 5-day report WL (possible enforcement actions)

Considerations for moving up or down column B:

- Chronic Spills – move down 1
(Note: ‘chronic’ is 2 or more spills in a 12-month period from the same location or >6 spills per 100 miles of collection system piping, per Brad Ammons, U.S. EPA.)
- Treated or Reuse Spill – move up 1
- Partially Treated – stay
- Untreated – move down 1
- Response, Operation & Maintenance Actions –
poor = move down 1, good = move up 1
- Environmental Harm – move down 2
- Reached Surface Water – move down 2

5. Other items such as water body classification, good faith, failure to sample, water quality violation, compliance history should be considered in the penalty calculation, as applicable.
6. The possible initial responses are coded in the database as follows:
 - a. Memo to file: Necessary spill information received and reviewed.
 - i. SRVC: Submittal Received by Department – Document receipt and review of submittal using the Memo to File for Sanitary Sewer Overflows/Unauthorized Discharge.
 - b. Compliance Assistance or Enforcement: Follow-up actions needed. After response from facility, document either formal enforcement (e.g., COE) **or** No Further Action (NFA)*.
 - a. CAO – Verbal: OCA
 - b. CAO – Written: NCLI
 - c. WL: WLI

* NFA should be coded into the database when compliance assistance (OCA or NCLI) or informal enforcement (WLI) was performed, and further enforcement is not pursued at that time. Within the *Notes: Preparation* Field, include “Although DEP is not initiating formal enforcement at this time, this NFA does not preclude this spill from further action in the future.”

7. All initial responses must be documented and filed in Oculus for the applicable facility under Enforcement/Legal.